

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-028-02-1-5-00318  
**Petitioners:** James E & Mary Jane Sheeran Jr.  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 008-08-15-0095-0004  
**Assessment Year:** 2002

The Indiana Board of Tax Review (the "Board") issues this determination in the above matter, and finds and concludes as follows:

### Procedural History

1. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held between the Petitioners and the Respondent in December 2003. The Department of Local Government Finance (DLGF) determined that the Petitioners' property tax assessment for the subject property was \$11,400 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 14, 2004.
3. The Board issued a notice of hearing to the parties on August 9, 2004.
4. A hearing was held on September 21, 2004 in Crown Point, Indiana before Special Master Peter Salvesson.

### Facts

5. The subject property is located at 620 West 57<sup>th</sup> Avenue, Merrillville, in Ross Township.
6. The subject property is a 0.145 acre improved lot.
7. The Special Master did not conduct an on-site visit of the property.
8. Assessed Value of the subject property as determined by the DLGF:  
Land \$ 11,400 Improvements \$ 0 Total \$11,400
9. Assessed Value requested by the Petitioners during hearing:  
Land \$ 3,000 Improvements \$ 0 Total \$ 3,000
10. The persons indicated on the sign-in sheet (Board Exhibit C) were present at the hearing.

11. Persons sworn in at hearing:  
For Petitioners: James E Sheeran, Jr., Owner  
For Respondent: David M. Depp, Representing the DLGF

**Issue**

12. Summary of Petitioners' contentions in support of alleged error in assessment:
- a. The Petitioners' contention on the Form 139L for a lower value is based on the fact that the lot is not a buildable lot because a sewer line under the parcel prevents development. *Sheeran Testimony.*
  - b. The Petitioners contend that the subject property would not be sold separately from the adjacent residence. *Sheeran Testimony*
13. Summary of Respondent's contentions in support of assessment:
- a. The Respondent contends that the subject property is improved in that the Petitioners' house is partially located on the subject parcel. *Depp Testimony.*
  - b. The Respondent contends that the subject property has to be sold with the adjacent property because the house is situated on both lots. *Depp Testimony.*

**Record**

14. The official record for this matter is made up of the following:
- a. The Petition and all subsequent pre-hearing submissions by either party.
  - b. The tape recording of the hearing labeled Lake Co. #132.
  - c. Exhibits:

Petitioners Exhibit A: Photo of subject property

Respondent Exhibit 1: Form 139L Petition

Respondent Exhibit 2: Subject property record card

Respondent Exhibit 3: Plat map

Board Exhibit A: Form 139 L Petition

Board Exhibit B: Notice of Hearing

Board Exhibit C: Sign-in Sheet

- d. These Findings and Conclusions.

## Analysis

15. The most applicable governing cases are:
  - a. A petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving, by preponderance of the evidence, that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d at 475, 478 (Ind. Tax Ct. 2003); *see also, Clark v. State Bd. Of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
  - b. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Wash. Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) ("[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis").
  - c. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner's evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner's evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
16. The Petitioners did not provide sufficient evidence to support the Petitioners' contention for a reduction in assessed value. This conclusion was arrived at because:
  - a. The Petitioners contend that the subject property's value is affected by the presence of a sewer line under the parcel. *Sheeran Testimony*. The Petitioners further contended that the subject property is assessed at the same value as the land portion of an adjacent lot owned by the Petitioners upon which the Petitioners' residence is situated. *Sheeran Testimony*. Although the Petitioners did not submit the property record card for the adjacent property, James Sheeran testified that the two lots were the same size. *Sheeran Testimony*.
  - b. It may be possible to infer from the Petitioners' evidence that the current assessment of the subject property is incorrect, in that the subject lot is assessed for the same value as an adjacent lot of the same size that does not have a sewer line bisecting it.
  - c. However, the Petitioners did not present any evidence to quantify the effect that the presence of the sewer line has on the market value-in-use of the subject property. The Petitioners' mere assertion that the property is worth three thousand dollars (\$3,000) amounts to nothing more than a conclusory statement. Such statements do not constitute probative evidence. *See, SSK Co. v. Dep't of Local Gov't Finance*, 779 N.E.2d 125 (Ind. Tax Ct. 2002)(holding that the record was devoid of evidence concerning the appropriate adjustment to land value other than the taxpayer's conclusion that land was entitled to a fifty percent (50%) negative influence factor).

- d. Consequently, even if the Petitioners demonstrated that the current assessment is incorrect, they failed to demonstrate what the correct assessment would be. As a result, the Petitioners have failed to establish a prima facie case. *See Meridian Towers* 805 N.E.2d at 475.

### **Conclusion**

17. The Petitioners did not establish a prima facie case. The Board finds in favor of the Respondent.

### **Final Determination**

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessment should not be changed.

ISSUED: \_\_\_\_\_

---

Commissioner,  
Indiana Board of Tax Review

## IMPORTANT NOTICE

### - APPEAL RIGHTS -

**You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.**